

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DEKARA DECORA JOHNSON

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Plaintiff

*

vs.

*

CIVIL ACTION NO. MJG-14-159

REALITY AUTO SALES, INC.

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Defendant

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MEMORANDUM AND ORDER

The Court has before it Plaintiff's Motion to Vacate Entry of Default [Document 10]. The Court finds that neither a response nor a hearing is necessary.

It appears that Defendant was only a day or two late in responding to the Complaint by filing its Motion to Dismiss or, in the Alternative, Motion for Summary Judgment [Document 9]. In deciding whether a default judgment is appropriate, the Court consider three factors: (1) whether the plaintiff will be prejudiced if default is not granted, (2) whether the defendant has a meritorious defense, and (3) whether the defendant's delay was the result of culpable misconduct. Emcasco Ins. Co. v. Sambrick, 834 F.2d 71, 73 (3rd Cir.1987).

The Court finds that Plaintiff will not be prejudiced if the Defendant has the opportunity to defend itself and that the modest delay was not the result of any culpable misconduct. The

Court notes the pending motion but cannot determine whether or not there is any meritorious defense.

Under the circumstances:

1. Plaintiff's Motion to Vacate Entry of Default [Document 10] is GRANTED.
2. The Order of Default [Document 8] is RESCINDED.
3. Plaintiff shall respond to the Motion to Dismiss or, in the Alternative, Motion for Summary Judgment [Document 9] by May 15, 2014 and Defendant shall file any Reply by May 29, 2014.

SO ORDERED, on Tuesday, April 22, 2014.

/s/_____
Marvin J. Garbis
United States District Judge